

BEFORE THE TENNESSEE ETHICS COMMISSION

In re:

WICKY SHEPHERD

Respondent.

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No. 08-31

ORDER ASSESSING CIVIL PENALITIES

This matter came on to be heard by the Tennessee Ethics Commission ("Commission") on June 24, 2008 at its regularly scheduled meeting upon Commission staff's presentation of evidence substantiating that Respondent failed to timely file a Statement of Disclosure of Interests, Form SS-8005 ("Statement"), as required by Tenn. Code Ann. §§ 8-50-501, 8-50-503, or 8-50-504.

FINDINGS OF FACT

Based on the entire record in this matter, the Commission finds as follows:

1. Respondent, Mr. Wicky Shepherd, was a local elected official on January 31, 2008, and was required to file a Statement as required by Tenn. Code Ann. §§ 8-50-501-502.
2. The Commission has taken steps through training, website postings, and notices to help persons required to file Statements do so in a timely manner. In April 2008, The Commission sent a warning letter to Mr. Shepherd.
3. Respondent did not file a Statement by January 31, 2008.
4. On May 5, 2008, the Commission sent Respondent, a Notice of Informal Show Cause Hearing (the "Show-Cause Notice") by certified mail, return receipt requested, and by regular first class mail. The Show-Cause Notice stated that the Commission intended to consider, at its June 24, 2008 meeting, an assessment of civil penalties against Respondent for failure to timely file his 2008 Statement.
5. The Show-Cause Notice set forth the allegations, the maximum amount of civil penalties that could be assessed, and the date, place, and time of the hearing. The Show-Cause Notice also informed Respondent of his opportunity to participate in the hearing either by appearing personally or by submitting a sworn statement and any supporting documents.
6. The Commission received a return receipt substantiating that Mr. Shepherd

received the Show-Cause Notice on May 12, 2008.

CONCLUSIONS OF LAW

1. Respondent had a duty under Tenn. Code Ann. § 8-50-501(a)(19) to file a Statement as a local elected official.
2. Respondent has not filed his 2008 Statement.
3. Tenn. Code Ann. § 3-6-205(a)(1)(A) authorizes the Commission to administratively assess a civil penalty of not more than twenty-five dollars (\$25.00) per day up to a maximum of seven hundred fifty dollars (\$750.00) if an official fails to timely file a Statement within five (5) days of receipt of an assessment letter.
4. Because Respondent received his Show-Cause Notice, notifying him that he was in jeopardy of being assessed a civil penalty, on May 12, 2008, his civil penalty began to accrue on May 13, 2008. The penalty accrued until reaching the statutory limit because Respondent has not filed his Statement as of the date of this order. The penalty accrued for thirty (30) days at twenty-five dollars (\$25.00) per day, for a total penalty of seven hundred fifty dollars (\$750.00).

ORDER

It is therefore ORDERED as follows:

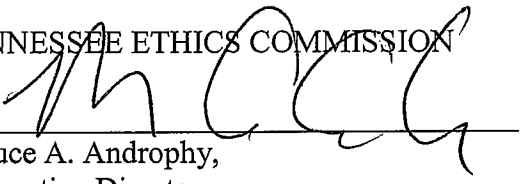
1. A civil penalty in the amount of seven hundred fifty dollars (\$750.00) is assessed against Mr. Wicky Shepherd for failure to file a Statement.
2. The Executive Director shall enter this Order.
3. The Executive Director shall cause a copy of this Order to be provided to the Respondent, by either personal service, certified mail return receipt requested, or overnight delivery.
4. As provided by Tenn. Code Ann. § 3-6-107(8), this assessment cannot become final until after Respondent has been afforded an opportunity for a notice and a hearing. This includes the right, under Tenn. Code Ann. § 3-6-205(a)(1)(B) as follows: "To request a waiver, reduction, or to in any way contest a penalty imposed by the Tennessee ethics commission for a Class 1 offense, a person shall file a petition with the commission," and to such other or additional rights as may be afforded to him to a contested case hearing under the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 - 4-5-325.
5. Respondent shall have the right to initiate a contested case proceeding by filing with the Commission, within thirty (30) days after the date of entry of this Order, a Petition for a

contested case hearing in the form set forth in the Commission's draft Rules on Administrative Sanctions.

6. Along with the Order, the Executive Director shall provide Respondent a copy of the Commission's draft Rules on Administrative Sanctions.

7. If Respondent does not timely file a Petition for reconsideration or a Petition for a contested case hearing, this Order shall become final and shall form the basis for legal action to collect the civil penalty.

SO ORDERED this 7th day of July, 2008

TENNESSEE ETHICS COMMISSION
By: 
Bruce A. Androphy,
Executive Director